

**UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

JOHN LOFFREDO, <i>et al.</i> ,  Plaintiffs,  v.  CERBERUS CAPITAL MANAGEMENT, L.P., STATE STREET BANK AND TRUST COMPANY, JOHN DOE and MARY ROE,  Defendants.	Civil Action No: 2:10-cv-14214  Hon. Julian Abele Cook, Jr.  <b>STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE AS TO DEFENDANT CERBERUS ONLY</b>
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WHEREAS, on or about September 9, 2010, Plaintiffs filed a complaint in the above-captioned action (the “Action”) that named Cerberus Capital Management, L.P. (“Cerberus”) as a defendant;

WHEREAS, Cerberus’ counsel has represented to Plaintiffs counsel that (i) Cerberus had no direct or indirect authority over the SRP or Rabbi Trust referenced in the complaint, nor gave any directions or instructions regarding any of the assets maintained in the Rabbi Trust for the benefit of the SRP beneficiaries, and (ii) the substantive allegations set forth in the complaint against Cerberus have no basis in fact; and

WHEREAS, Plaintiffs have consented and agreed to voluntarily dismiss Cerberus without prejudice, provided that it is further agreed that the running of any applicable statute of limitations (or similar defense) is tolled as to Cerberus with respect to the claims asserted in the

Complaint or other claims not yet asserted relating to the general allegations stated in the Complaint (“Claims”) for the period beginning September 9, 2010 to the earlier of September 9, 2013 or the close of fact discovery in *Loffredo et al. v. Cerberus Capital Management, L.P.*, *State Street Bank and Trust Company, et al.*, No. 2:10-cv-14214 and *Loffredo et al. v. Daimler AG, State Street Bank and Trust Company, Dieter Zetsche, Thomas LaSorda, et al.*, No. 2:10-cv-14181 (the “Actions”);

**NOW, THEREFORE, IT IS HEREBY ORDERED**, that Cerberus is dismissed as a defendant in the Action without prejudice;

**IT IS FURTHER ORDERED**, for purposes of all statutes of limitations, or other time bars, not expired as of September 9, 2010, any Claims filed by Plaintiffs against Cerberus prior to the earlier of September 9, 2013 or the close of fact discovery in the Actions shall be treated as though it were filed on September 9, 2010. The Parties agree that the tolling period shall be excluded from all computations of any Statute of Limitations applicable to the Claims. Cerberus shall not plead, assert, or otherwise raise any Statutes of Limitation, to the extent such Statutes of Limitation are tolled by this Stipulation and Order, as a bar to or other limitation on any claims;

**IT IS FURTHER ORDERED**, that in the event Cerberus has not been rejoined in the litigation before the earlier of September 9, 2013 or the close of fact discovery in the Actions, then dismissal without prejudice will become a dismissal with prejudice.

**IT IS FURTHER ORDERED**, that each party shall bear their own costs in connection with the prosecution or defense of this Action.

WARNER NORCROSS & JUDD LLP

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**SO ORDERED:**

Dated: February 14, 2011

s/Julian Abele Cook, Jr.  
Hon. Julian Abele Cook, Jr.